

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

Plaintiff

v.

RUBEN MONROIG ALMODOVAR[1]

Defendant

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**Criminal No. 98-231(SEC)**

**OPINION AND ORDER**

Before the Court are Defendant's Motion Requesting Some Disposition (Docket #162-1) and Motion Requesting Reconsideration and Evidentiary Hearing (Docket # 166) pertaining to the payment of restitution by Defendant. The Court granted Defendant's Motion for Reconsideration and referred the matter to U.S. Magistrate-Judge Gustavo Gelpí for an evidentiary hearing (Docket # 167). The Magistrate held several status conferences (Dockets ## 173, 177 & 178) and on October 25, 2005 issued his Report & Recommendation (Docket # 179). Magistrate Gelpí recommended that Defendant (1) pay \$30,000.00 pursuant to a payment plan agreed to with the Government and (2) promptly sell the vessel in good faith within sixty (60) days of the entry of this Opinion and Order and deposit said sum with the Clerk of the Court. As per the Magistrate's Report and Recommendation, the sum offered as payment of the vessel and deposited with the Clerk of the Court, should be accredited to the Government, in addition to the \$30,000.00. None of the parties have filed objections to the Magistrate's Report and the time allotted for doing so has expired.

**Standard of Review**

The scope of review of a Magistrate's recommendation is set forth in 28 U.S.C. § 636(b)(1)(c). This section provides that "[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified findings or recommendations to which [an] objection is made." Id. The Court can "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate," however, if the affected party

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fails to timely file objections, “the district court can assume that they have agreed to the magistrate’s recommendation.” Alamo-Rodríguez v. Pfizer Pharms., Inc., 286 F. Supp. 2d 144, 146 (D.P.R. 2003) (quoting Templeman v. Chris Craft Corp., 770 F.2d 245, 247 (1<sup>st</sup> Cir. 1985)). Thus, no review is required of those issues to which objections are not timely raised. Thomas v. Arn, 474 U.S. 140 (1985), reh’g denied, 474 U.S. 1111 (1986); Borden v. Sec’y of Health & Human Servs., 836 F.2d 4, 6 (1<sup>st</sup> Cir. 1987). In fact, a party who fails to file any objections to the Magistrate Judge’s Report and Recommendation within ten days of its filing waives his or her right to appeal from the district court’s order. Henley Drilling Co. v. McGee, 36 F.3d 143, 150-51 (1<sup>st</sup> Cir. 1994); United States v. Valencia-Copete, 792 F.2d 4, 5 (1<sup>st</sup> Cir. 1986); Davet v. Maccarone, 973 F.2d 22, 30-31 (1<sup>st</sup> Cir. 1992) (“[f]ailure to raise objections to the Report and Recommendation waives that party’s right to review in the district court and those claims not preserved by such objection are precluded on appeal”).

### **Analysis and Conclusion**

Neither party has objected to the Magistrate Judge’s Report and Recommendation, thus we are not required by law to review it. However, upon review, we find no fault with Magistrate Judge Gelpí’s assessment and thus **APPROVE** and **ADOPT** his Report and Recommendation as our own. Consequently, as payment of restitution, Defendant is ordered to pay \$30,000.00 in accordance with the payment plan agreed to by Defendant and the Government. Furthermore, Defendant is ordered to, within sixty (60) days of the entry of this Opinion and Order, sell in good faith the vessel referred to in the Magistrate’s Report and Recommendation and deposit said sum with the Clerk of the Court, to be accredited to the Government

### **SO ORDERED.**

In San Juan, Puerto Rico, this 15<sup>th</sup> day of November, 2005.

S/ *Salvador E. Casellas*  
SALVADOR E. CASELLAS  
U.S. Senior District Judge